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**MEMORANDUM OF UNDERSTANDING (MOU)**  
**Agreement Retroactive to December 1, 2004 and through June 30, 2006**

The Professional and Vocational Employees Division of Teamsters Local 856, I.B.T., representing the members of the San Bruno Professional Firefighters Association and the representatives of the City of San Bruno have met and conferred in good faith regarding wages, hours, and other terms, and conditions of employment of employees in the representation unit listed in Exhibit A, have exchanged freely information, opinions, and proposals, and have endeavored to reach agreement on all matters relating to the employment conditions of such employees.

This agreement reflects the modifications made to the previous MOU dated December 2000 - November 2004 consistent with the tentative agreement between the parties dated May 16, 2005 as reflected in Resolution Number 2005-41 approved by the City of San Bruno City Council on May 24, 2005. This Resolution is included as Exhibit "B" in the Exhibit section of the MOU. This agreement is retroactive to December 1, 2004 and remains effective through June 30, 2006 with modifications to salary, benefits and other terms and conditions effective the pay period following December 1, 2004, or dates specified in the Memorandum of Understanding.

This Memorandum of Understanding is entered into pursuant to the Meyers-Milias-Brown Act (Government Code Sections 3500-3510) and has been jointly prepared by the parties.

**Section I. Recognition**

Union Recognition. The Professional and Vocational Employees Division of Teamster Local 856, I.B.T., hereinafter referred to as the Union, is recognized as the majority representative for all employees assigned to the classifications set forth in Exhibit "A" (which is attached and made a part hereof), and is the only employee organization entitled to meet and confer in good faith on matters within the scope of representation for employees in such unit; provided, however, that the foregoing shall be inapplicable in the event such recognition is revoked, pursuant to Resolution No. 1970-20 or Section 30 of this Memorandum of Understanding.

**Section 2. Union Security**

**Section 2.1 Dues Deduction: Modified Agency Shop**

(a) Dues Deduction

(1) The Union may have the regular dues of its members within the representation unit deducted from the employees' pay checks under procedures

prescribed by the City Finance Director for such deductions. Dues deductions shall be made only upon signed authorization from the employee on a form furnished by the City.

(2) The dues deduction authorization form for employees in the representation unit covered by the Memorandum of Understanding shall be as follows:

"I hereby authorize and direct the City Finance Director to make a payroll deduction from my earnings once each month for my membership dues in \_\_\_\_\_ (Union) in the amount of \$\_\_\_\_\_ or such greater or lesser amount for membership dues approved by the Union and as the Union shall request the City Finance Director, who shall be held harmless for following such instruction, to deduct from my earnings, the same to be paid to the Union.

"I understand that I may revoke this authorization during the term of the Memorandum of Understanding executed by the City and the Union on \_\_\_\_\_. I will be able to revoke this payroll deduction authorization by notification to the City Finance Director by registered mail. Unless I so revoke this deduction authorization within such period, the membership dues shall be automatically deducted from my earnings for the full term of such Memorandum of Understanding and succeeding memoranda of understanding. I further understand that if I discontinue my membership in the Union I shall still be liable to the Union for payment of a service fee as required by Memorandum of Understanding.

"The first deduction is to be made on the payroll for the period ending\_\_\_\_\_.

(3) The Union shall hold the City of San Bruno and its officers and employees, including but not limited to the City Finance Director, harmless for following the instructions contained in such dues deduction authorizations. The City shall deliver revocations of membership to the Union on a monthly basis and include verification that receipt was by registered mail.

(4) The City Finance Director shall accept authorization for dues deduction on a monthly basis.

(5) The City shall not be required to collect any special assessments or similar short-time changes in rate.

(6) In the event of the occurrence of a job action, as defined in this Memorandum of Understanding, the City may terminate Union dues deduction.

(b) Modified Agency Shop

(1) Employees assigned to the classifications set forth in Exhibit "A"

shall become members of the Union, or in the alternative, shall pay to the Union as an agency fee an amount equal to the customary initiation fee and monthly dues, except for any employee who has timely exercised the right to represent himself/herself pursuant to statute. Dues deduction shall be consistent with the pay schedule used by the City.

(2) In the event of nonpayment of the service fee, the Union shall have the right to bring a civil action against the employee to enforce its rights to such fee. In the event the Union obtains a judgment against an employee for such fee, the Union may exercise the remedies provided by law for collection of the amounts due under such judgment, including wage garnishment, to enforce its rights to amounts owed, plus costs and attorney fees incurred where awarded by the court.

(3) Any employee covered by this Memorandum of Understanding who is a member of a bona fide religion, body, or sect which has historically held conscientious objections to joining or financially supporting public employee organizations shall not be required to join or financially support the Union where such religion, body, or sect is recognized by the National Labor Relations Board to hold such objections. Upon presentation of evidence of membership in such religion, body, or sect satisfactory to the City and the Union, which satisfaction cannot be unreasonably withheld, the employee shall be relieved of any obligation to pay the service fee. In lieu of a service fee, such employee shall contribute a sum equivalent to the service fee to a charitable organization selected from one of three organizations proposed by the Association. Such charitable organizations shall be 503 (c) organizations and shall not have union or religious affiliation.

## **Section 2.2 Communications with Employees**

The Union shall be provided with suitable space on bulletin boards at each work location. The Union may have reasonable space to install its own bulletin boards. Such bulletin boards shall be for posting notices concerning union business. The City shall bear the cost for reasonable replacement of bulletin boards.

## **Section 2.3 Advance Notice**

Except in cases of emergency as provided below in this section, the Union shall be given reasonable advance written notice of any ordinance, resolution, rule or regulation directly relating to matters within the scope of representation proposed to be adopted by the City and shall be given the opportunity to meet and confer with the appropriate management representative prior to adoption.

In cases of emergency when the following procedure is not practicable or in the best public interest, the City may adopt or put into practice immediately such measures as are required. At the earliest practicable date thereafter, the Union shall be provided

with the notice required in the preceding paragraph and be given the opportunity to meet and confer with the appropriate management representatives.

As used herein, "emergency" shall mean any situation in which proper management of the City requires immediate action, or in which immediate action is necessary for the preservation of life or property.

Written notice of the foregoing matters shall be addressed to the Union President and Secretary-Treasurer. In addition, the Union shall be placed on the regular mailing list for all meetings of the City Council and Planning Commission.

Proper advance notice shall consist of written notice to the designated business agent with a copy to the designated shop steward(s) including Association President. Reasonable notice shall be considered as fourteen (14) calendar days.

### **Section 3. City Rights**

(a) The purpose of this section is to insure that the City is able to carry out its constitutional and statutory functions. The City and its City Council retain and reserve all rights, powers, authority, duty, responsibility, and obligations confirmed and vested in it by state and federal constitutions.

(b) Nothing herein shall be construed to require the City to meet and confer on matters which are solely the function of management and which are not otherwise provided in this Memorandum of Understanding. The rights of the City through its Council and management include, but are not limited to, the following:

- (1) To exclusively determine the mission of its constituent departments, commissions, and boards;
- (2) To set standards of service of the various city departments;
- (3) To determine the procedures and standards of selection for employment;
- (4) To establish grooming standards;
- (5) To lay off its employees from duty because of lack of work and other legitimate reasons;
- (6) To maintain the efficiency of governmental operations;
- (7) To determine the methods, means, and personnel by which governmental operations are to be conducted;

- (8) To determine the content and intent of job classifications;
- (9) To determine the methods of financing of departmental operations;
- (10) To determine the style and/or types of city-issued wearing apparel, equipment, or terminology to be used;
- (11) To determine and/or change the facilities, methods, technology, means, organizational structure, size and composition of the work force, and allocate and assign work by which City operations are to be conducted;
- (12) To determine and change the number of locations, relocating, and types of operations, processes, and materials to be used in carrying out all City functions, including, but not limited to, the right to contract or subcontract any work or operations of the City;
- (13) To assign work to and schedule employees in accordance with requirements as determined by the City, and to establish work schedules and assignments;
- (14) To establish and modify productivity and performance standards for employees, and to require compliance therewith;
- (15) To discharge, suspend, demote, reprimand, withhold salary increases, or otherwise discipline employees for cause;
- (16) To take all necessary actions to carry out its mission in emergencies.

It is a major purpose of this section to maximize the flexibility of the City to conduct its day to day operations.

(c) Prior to modification of the following subjects, the City shall meet and confer with the Union:

- (1) Minimum qualifications for classifications represented by the Union,
- (2) The content and intent of job classifications; provided, however, that it is understood that job descriptions used to describe the various duties of a classification do not preclude employees from being assigned to work not listed as a specific duty of that classification;



- employees;
- (3) Licenses and certificates required for such classifications of employees;
  - (4) Degrees of training required for such employees;
  - (5) Grooming standards applicable to such employees;
  - (6) Productivity and performance standards of such employees;
  - (7) Styles and types of wearing apparel to be used on duty;
  - (8) Size and composition of the work force of the Fire Department;
  - (9) Contracting or subcontracting of operations currently being performed by the Fire Department.

The obligation of the City to meet and confer regarding the foregoing subjects shall not be construed to require that the City and the Union reach agreement prior to the implementation of the types of modifications described in this subsection.

(d) Nothing in this section shall be construed to excuse the City from the obligation to meet and confer with the Union regarding any subject or matter not set forth in this section where required to do so by statute.

#### **Section 4. No Discrimination**

There shall be no discrimination by either Union or City on any basis prohibited by state or federal law or on account of any legitimate union activity.

#### **Section 5. Union Representative**

(a) Union representatives may receive complaints or grievances of employees at the work location during work hours. They shall not interfere with the normal conduct of work or duties of the employees, as determined by the department head.

(b) Activities such as the soliciting of membership, collection of dues, holding membership meetings, campaigning for office, conducting elections, and distributing literature is strictly prohibited during working hours without the prior approval of the City Manager or his/her representative. The Union may solicit membership during the lunch period. For the purpose of this section, "working hours" shall extend from 0800 hours to 1700 hours.

(c) In the event the City believes that the union representatives are abusing the provisions of this section, it shall contact the Union or its representative in writing to

arrange a mutually acceptable time and place to investigate the City's complaint and to assure full compliance by the union representative to the extent possible.

(d) Whenever an employee is required to meet with a supervisor and the employee reasonably anticipates that such meeting will involve questioning leading to disciplinary action, the employee shall be entitled to have a union representative present upon request. In the event the employee desires the presence of a union representative, the City will contact the Union to arrange a mutually acceptable time to hold the meeting. Once scheduled, neither party shall be required to reschedule the meeting for the convenience of the other. This provision shall not prohibit the City from taking action if immediate action is necessary.

### **Section 5.1 Access to Personnel Files**

An employee or upon presentation of written authorization from the employee, an employee's representative shall have specific access to the employee's personnel file upon request and reasonable convenience of the Human Resources Division. Documentation in the personnel file relating to the investigation of a possible criminal offense and letters of reference may be specifically excluded from the inspection and review of the employee or employee's representative. Medical records and information which would be privileged under state law pursuant to the attorney-client privilege may also be excluded; workers compensation files fall under the attorney-client privilege. Personnel files may only be reviewed in the presence of a designated Human Resources Division staff person.

The City shall maintain a separate employee medical information file. All medical records involving disability medical evaluations, D.M.V. medical evaluations, pre-employment medical evaluation shall be included in the employee's medical information file and shall be open for inspection, including the production of copies thereof, by the employee, or the employee's designated representative.

### **Section 5.2 Personnel Files - Letter of Recordation**

For the purpose of this M.O.U. a Letter of Recordation is understood as a written record placed into an employee's personnel file intended to be either informative in nature or to document in a positive, rather than punitive, manner a notice to the employee for personnel correction of action, which if continued could result in disciplinary action. In the event the employee feels such a record constitutes an adverse comment, the employee may, within thirty (30) days, file a written response. The written response shall then be attached to and shall accompany the Letter of Recordation. A letter of Recordation shall include a statement in bold print that the Letter of Recordation is informative and not punitive.

### **Section 5.3 Implementation of Confidential Employee Health Data Base**

## **System**

The City shall ensure that a confidential permanent health file is established and maintained on each sworn department employee. The City and Association shall develop and maintain a health file record that shall include the results of regular medical evaluations, DMV medical evaluations, non attorney-client privileged occupational illnesses or injuries documents, and any known events or incidents that expose an individual to known or suspected hazardous materials, toxic products or contagious diseases. A joint management labor committee shall be established to develop and design the actual data base and approach to be used for maintaining this health data base. Each individual employee shall be responsible for entering their own applicable data and exposure information. The City shall provide copies of formal medical, DMV evaluations, and initial doctors reports only of reported workers compensation reports.

## **Section 6. Salary Plan**

### **Section 6.1 Salary Range**

#### **Historical Footnotes with regard to salary:**

(a) In 1997, the then current two percent (2%) EMT incentive was factored into the base salary and EMT-I certification became the required minimum qualification for the position.

(b) As of December 1, 1998, a new salary range for Fire Captain was established which was six percent (6%) higher than the then current Fire Captain salary range. This adjustment reflects the equivalent of the current six percent (6%) incentive pay for obtaining an A.S. Degree in Fire Science. The new Fire Captain salary range shall be applicable to all Fire Captain personnel as of December 1, 1998 and also for any new appointments to the position of Fire Captain as of that date. As of December 1, 1998, the position of Fire Captain is no longer eligible for the educational pay incentive provisions relative to an AA/AS degree.

#### **Salary Survey Methodology:**

The City and Union agree that the salary for Firefighter and Fire Captain shall be compared to other agencies by review of the following factors: 1) determination of whether an AS degree is required in job description and included in base salary. In those cases, the base salary shall be used for the salary survey; and 2) determination if AS degree is not required as a part of Fire Captain job description but the comparator agency provides educational incentive for a Fire Captain with an AA/AS degree. In those cases, the survey salary shall be the base salary plus the appropriate AA/AS educational incentive pay.

The City and Union agree that survey salaries for those agencies which do not include EMT certification as a minimum qualification shall be determined by using the agencies base pay and its appropriate EMT certification incentive.

Historical Salary Survey Comparison Agencies: South San Francisco, North County Fire Authority (Daly City, Pacifica & Brisbane), Central County Fire (Hillsborough & Burlingame), Millbrae, San Mateo, Foster City, Redwood City, South County Fire District, Menlo Park Fire Protection District, Half Moon Bay Fire District, Woodside Fire District and San Bruno.

**Salary and Benefit Survey:** City will agree to complete a full salary and benefits comparison effective as of June 1, 2006 using historical comparator agencies for purposes of understanding market place conditions and where City stands in comparison. This information is for reference purposes only and does not obligate the City to any course of action. The City remains interested in providing a market rate salary and benefits package for its employees consistent with its ability to pay for such a program and within the collective bargaining process. For purposes of this section, historical comparator agencies are understood to include those historical comparator agencies or current districts, which represent the comparator agencies

The following salary ranges are effective at the effective date of the MOU based upon the following understandings:

1. Top-step firefighter salary shall include the 6% (six percent) AA/AS educational incentive pay previously provided. Possession of AA/AS and/or California Paramedic may now be required by the City as a minimum educational requirement for position of Firefighter.
2. For the duration of this contract, Fire Captain salary shall be 18% higher than that of Firefighter.

**Current salary ranges**

**Firefighter:**

(1)	(2)	(3)	(4)	(5)
5367	5649	5946	6258	6587

**Fire Captain:**

(1)	(2)	(3)	(4)	(5)
6333	6665	6811	7383	7771

1. Effective December 13, 2004 the City shall increase the salaries of the classes of Firefighter and Fire Captain by 2%.
2. Effective March 7, 2005 the City shall increase the salaries of the classes of

Firefighter and Fire Captain by 2.4%.

3. Effective January 9, 2006 the City shall increase the salaries of the classes of Firefighter and Fire Captain by 1.5%.

Calculation of actual salary shall be as follows:

(1) For the five step range, the range will be calculated by dividing each range step, beginning with top step, by the factor 1.0525.

(2) Salary Related: Effective as of August 14, 2001 the City agrees to compensate FLSA Over-time owed employees related to working the 56 hour schedule by use of paying employees the equivalent of 2.735% per pay period in-lieu of the employee submitting for overtime pay related to working the 56 hour schedule. The City agreed to use the approach used by the City of Millbrae. As a part of this agreement, the prior practice of paying actual overtime related to working overtime and reporting it as such on the employee's time sheet ends effective as of August 14, 2001.

### **Section 6.2 Salary Plan Administration**

Employees occupying a position set forth in Exhibit "A" of this Memorandum of Understanding shall be paid a salary within the range established for that position's classification.

#### **Section 6.2.1 Salary Plan Administration, Employee Evaluations**

All personnel in this bargaining unit shall receive at least an annual performance review. If an employee has not received his or her performance evaluation within thirty (30) days of its due date, the employee shall be considered as performing in a satisfactory manner.

#### **Section 6.3 Salary Plan Administration, Original Appointment**

Except as herein otherwise provided, the salary for a new employee entering the competitive service shall be the minimum salary step for the classification to which the employee is appointed. However, when warranted by special circumstances, the City Manager may appoint a new employee at a salary step other than the minimum step of the respective classification.

The City Manager's decision shall be final. Employees reinstated or reemployed after layoff shall receive a rate within the range established for the class and agreed upon by the City Manager and the employee concerned.

#### **Section 6.4 Salary Plan Administration, Advancement Within Salary Range**

Each employee shall be considered for a salary increase to the next higher step within the range of the assigned classification upon the anniversary of the employee's appointment date or revised salary administration date.

No salary advancement shall be made so as to exceed the maximum rate established in the pay plan for the class to which the advanced employee's position is allocated. Employees hired at the first step of the salary range shall be evaluated for salary advancement after the first six months of service and after additional one-year periods of service thereafter until the employee has reached the maximum rate established. Employees hired at other steps of the salary range shall be evaluated for salary advancement after the first year of service and after additional one-year periods of service thereafter until the employee has reached the maximum rate established. Advancement within the salary range shall generally be made one step at a time. However, the City Manager may, when circumstances warrant it, advance the salary of an employee more than one step at a time.

Advancements shall not be automatic, but shall depend upon increased service value of an employee to the City as exemplified by recommendations of his/her supervising official, length of service, performance record, special training undertaken, or other pertinent evidence.

Advancement to the next higher step within the range of the assigned classification shall be implemented only upon final approval by the City Manager.

Changes in the employee's salary because of promotion or demotion may set a revised salary anniversary date for that employee.

Salary range adjustments for a classification will not set a new salary anniversary date for employees serving in that classification.

Whenever the salary schedule for a position classification is revised, each incumbent in a position to which the revised schedule applies shall be paid at the same step in the revised range as the step at which the employee was paid in the previous salary range.(i.e., if at step 4 of previous salary range, at step 4 of new salary range)

If an employee takes a leave of absence, the time spent away from work shall not be counted toward the completion of the next step. Depending upon how long the individual is away from work, it will move the employee's anniversary date in accordance with the rule (below) that presently determines the anniversary.

### **Section 6.5 Anniversary Date**

This date will be the actual date of hire and not the first of month before or after the 15<sup>th</sup> of the month. Future salary and benefit adjustments for vacation etc., would be

made effective the beginning of the pay period in which the employee's anniversary date occurred.

#### **Section 6.6 Salary Plan Administration, Salary Step After Promotion or Demotion**

(a) Promotion. When an employee is promoted from a position in one classification to a position in a higher classification, and at the time of promotion is receiving a salary equal to, or greater than, the minimum rate for the higher classification, that employee shall be entitled to receive the rate of pay of that certain step in the salary scale of the higher classification which nearest approximates five percent (5%) above the rate the employee has been receiving.

(b) Demotion.

(1) General. When an employee is demoted, his/her compensation shall be adjusted to the salary prescribed for the classification to which s/he is demoted. Where the demotion is not for disciplinary purposes, the City Council may provide for a rate of pay higher than the maximum step of the salary schedule for such classification.

(2) Abolition of position. When an employee is demoted as a result of abolition of position, s/he shall be placed at the salary step in the lower classification which most closely approximates but does not exceed the employee's salary in the higher classification.

(3) Voluntary demotions; demotions resulting from probationary rejections. When an employee takes a voluntary demotion to a position previously held or is reappointed to such a position as the result of a probationary rejection the employee shall be placed at the same step in the lower classification which the employee last held. The employee's service time at such step shall be the same as the service time held previously at such step.

(4) Disciplinary demotions. When an employee is demoted to a lower classification for disciplinary reasons, the specific rate of pay in the salary range of such classification to which the employee shall be entitled shall be determined by the City Manager.

#### **Section 6.7 Salary Plan/Acting Pay**

Fire Fighters who are designated by the Chief to assume charge of a station, or a Fire Captain who is put in charge of a shift as an Acting Battalion Chief, shall receive additional compensation in an amount of ten percent (10%) Acting Pay in addition to the regular salary when assigned for a minimum of three (3) hours retroactive to the first hour when the three (3) hour minimum is met or exceeded. Hours worked in excess of

the three (3) hour minimum shall be calculated and paid to the nearest one-quarter hour (15 minutes) increment.

### **Section 6.8 Salary Plan, Pay Periods**

Employees shall be paid bi-weekly in accordance with present practice.

## **Section 10. Probation Period**

### **Section 10.1 Length of Probationary Period**

All regular and promotional appointments to the classification of fire fighter and fire captain shall be tentative and subject to a probationary period of one year from the date of probationary appointment or promotion.

### **Section 10.2 Objective of Probationary Period**

The probationary period shall be regarded as a part of the testing process and shall be utilized for close observation of the employee's work, for securing the most effective adjustment of a new employee to his/her position, and for rejecting any probationary employee whose performance does not meet the required standards of work.

### **Section 10.3 Regular Appointment**

Not less than fifteen (15) days prior to the scheduled termination of the probationary period, the City Manager shall notify the probationer in writing as to whether the service of the probationer has been satisfactory and his/her retention in city employment is desired. If the City Manager notifies the probationer that the performance of the latter has been satisfactory, the City Manager shall appoint the probationer to his/her position on a regular basis, effective upon the completion of the probationary period. If the City Manager notifies the probationer that the performance of the latter has not been satisfactory, the employment of the employee shall be terminated at the expiration of the probationary period, or the City Manager may extend the probationary period for a specific period of time to allow for further observation and evaluation, not to exceed six (6) months.

### **Section 10.4 Rejection of Probationer**

(a) Except as provided in subsection (b), during the probationary period an employee may be rejected at any time by the City Manager without cause, without hearing, and without the right of appeal.

(b) Whenever the City Manager rejects a probationer pursuant to subsection



(a), the written notice of rejection shall advise the probationer as follows:

(1) That if the probationer believes s/he has been rejected because of allegations of misconduct which have been publicly disclosed under such circumstances that the good name, reputation, honor, or integrity of the probationer has been stigmatized, the probationer has the right to a hearing to provide him/her an opportunity to clear his/her name; and

(2) That if the probationer believes s/he has been rejected on account of race, color, ancestry, national origin, religion, sex, marital status, physical handicap, participation in the activities of a labor organization, or the exercise of any right guaranteed to the probationer by statute or constitution, the probationer is entitled to a hearing to determine whether such rejection was, in fact, effectuated upon such invalid basis.

The notice shall advise the probationer that the latter may request such hearing by transmitting to the City Manager in writing not later than the scheduled date of termination, which shall be specified in the notice, a request for a hearing. Such request shall specify the grounds upon which the hearing is requested, as set forth in paragraphs (1) and (2) of this subsection. If the probationer does not request a hearing in the manner prescribed by this section within the period allowed, the probationer shall be deemed to have waived his/her right to such hearing.

(c) The City Manager shall conduct hearings requested pursuant to this section. If the hearing has been requested pursuant to subsection (b) (2), the probationer shall have the burden of proof that the rejection was effected upon an invalid basis. At the conclusion of such hearing the City Manager may sustain the rejection, reinstate the probationer to probationary status if the probationary period has been completed, or reinstate the probationer to probationary status and extend the probationary period if otherwise permissible, if justified by the evidence presented at the ring.

### **Section 10.5 Rejection Following Probation**

Any employee rejected during the probationary period following a promotional appointment shall be reinstated to the position from which s/he was promoted, unless charges are filed and s/he is discharged.

## **Section 12. Layoff and Reemployment**

### **Section 12.1 Layoff**

When, in the judgment of the City Council, it becomes necessary to abolish positions, the City Council may abolish any position including those set forth in Exhibit

"A" of this Memorandum of Understanding, and the employee holding such position or employment may be laid off without the right of appeal. The City Manager, within limitations established by the City Council may likewise lay off regular employees due to a reduction in the service level, lack of work, or in a move for efficiency.

In reduction of force, employees with the least length of service in the classification shall be laid off first; provided, however, that any employee in the classification of captain so laid off may, if the employee so elects, be reassigned to the classification of fire fighter. This section does not apply to the right of the City Manager to determine whether and when a vacancy shall be filled.

### **Section 12.2 Re-employment Revised**

In rehiring, the name of the employee last laid off within two (2) years shall be placed at the head of an employment list for a position in the classification formerly held, and the employee shall be given preference in filling vacancies in that classification, and, if reemployed, shall be placed at the same step of the salary range previously held.

When a former or laid-off employee is re-employed by the City, the former employee must successfully complete the City's pre-employment physical examination, including drug screen, in order to be eligible for re-employment.

## **Section 13. Resignation and Reinstatement**

### **Section 13.1 Resignation**

An employee wishing to leave the competitive service in good standing shall file with the department head, at least two weeks before leaving the service, a written resignation stating the effective date and reasons for leaving. The resignation shall be forwarded to the City Manager with a statement by the department head or supervising official as to the resigned employee's service performance and other pertinent information concerning the cause of resignation. Failure to comply with this rule shall be entered on the service record of the employee and may be cause for denying future employment by the City.

### **Section 13.2 Reinstatement**

A regular employee who has resigned in good standing may be reinstated to a vacant position of the same classification as the previous position within a period of two years from the effective date of resignation. Reinstatement shall be made at the salary step recommended by the department head and approved by the City Manager, but shall not exceed the salary step held at the time the employee left City employment. Reinstatement shall be contingent upon passage of a medical examination and a physical agility test.

## **Section 14. Demotion**

The City Manager may demote an employee whose ability to perform his/her required duties falls below standard, or for disciplinary purposes. Upon request of the employee, and with the consent of the prospective supervising official, demotion may be made to a vacant position as a substitute for layoff. No employee shall be demoted to a position for which s/he does not possess the minimum qualifications. Written notice of the demotion shall be given the employee not less than three (3) days before the effective date of the demotion.

## **Section 15. Hours of Work, Overtime**

### **Section 15.1 Hours of Work**

(a) The workweek for shift personnel shall average 56 hours per week. The currently used shift schedule, which is a nine (9) day cycle consisting of "one day on, one day off, one day on, one day off, one day on, four days off," shall be deemed to be consistent with such workweek.

(b) The regular workweek for employees who occupy full-time positions but are not shift personnel shall consist of forty (40) hours. One 15 minute rest period shall be observed during the first half and the second half of each regular workday.

The City agrees to implement a 24-month pilot program to evaluate the 48/96 schedules effective as soon after ratification as practical. City reserves and retains the right to return to the Kelly schedule or other appropriate work schedules at any time during the pilot program. This pilot program shall automatically end at the conclusion of the 24 - month period unless mutually agreed upon by both parties. The parties agree that either party must notice the other of their interest in meeting regarding the continuation of this work schedule no later than January 1, 2007 and if both parties have agreed to meet, that all negotiations will have a deadline for completion of March 1, 2007. It is further agreed that the City shall incur no additional overtime as a result of conversion to the 48/96. Both parties recognize that the parties have previously agreed to shift change language for shift changes in January of each year; the same concept shall apply to shift changes resulting from the implementation of the 48/96 schedule.

During the pilot period the MOU provisions, shall be amended as follows:

1. 15.1 (a) The workweek for shift personnel shall average 56 hours per week. The 48/96 schedule, which is a six (6) day cycle consisting of two days on, four days off, shall be deemed to be consistent with such workweek.

2. 15.2 (b) (1) Authorized work performed by an employee assigned to a shift in excess of forty eight (48) hours within the six day cycle shall constitute overtime. As used in this sentence, "day" shall mean a 24 hour period commencing at 8:00 am of one calendar day and concluding at 8:00 am of the following day. This subsection shall be limited by the provisions pertaining to change of shift and changes between shift assignments and 40 hour workweek assignments.
3. 15.2 (b) (2) An employee required to work in excess of such regularly scheduled shifts shall be compensated for each overtime hour worked at the rate of one and one-half (1 ½) times the employee's straight time rate of pay based on a fifty six (56) hour work week.
4. 15.2 (b) (3).
  - (a) Change from "A" shift to "B" shift: Employee works first day on "A" shift, then works second day on "B" shift.
  - (b) Change from "A" shift to "C" shift: Employee works first day on "A" shift, then works second day on "C" shift.
  - (c) Change from "B" shift to "A" shift: Employee works first day on "B" shift, then works second day on "A" shift.
  - (d) Change from "B" shift to "C" shift: Employee works first day on "B" shift, then works both days on "C" shift.
  - (e) Change from "C" shift to "A" shift: Employee works both days on "C" shift, then works second day on "A" shift.
  - (f) Change from "C" shift to "B" shift: Employee works first day on "C" shift, then works second day on "B" shift.

#### New language

5. 15.2 (b) (4) At such time that the pilot program ends the MOU language shall revert back to the language that relates to the current Kelly schedule.
6. 15.2 (b) (4) During the pilot program the parties agree that in the event one shift is scheduled to work both December 24<sup>th</sup> and December 25<sup>th</sup> of the same year, the shift assigned to work on December 23<sup>rd</sup> will be reassigned to work on December 24<sup>th</sup>. The shift originally scheduled to work December 24<sup>th</sup> will be reassigned to work on December 23<sup>rd</sup>. Such change in schedule shall not incur additional overtime costs.

#### **Section 15.2 Overtime**

(a) Forty (40) hours per week employees:

(1) Authorized work performed by an employee assigned to work a forty (40) hour week in excess of forty (40) hours in one week shall constitute overtime.

(2) Authorized work by such employee performed in excess of eight (8) consecutive hours in one (1) day (exclusive of lunch period) shall constitute overtime.

(3) An employee required to work in excess of such regularly scheduled hours shall be compensated for each overtime hour worked at the rate of one and one-half (1-1/2) times the employee's regular straight-time rate of pay. If such employee is assigned to a shift, his/her overtime rate of compensation shall be governed by subsection (b) (2).

(4) As used in this subsection, the term "day" shall mean a calendar day, and the term "week" shall mean a calendar week.

(b) Employees on Shift: (Kelly schedule language)

(1) Authorized work performed by an employee assigned to a shift in excess of seventy-two (72) hours within the nine-day shift cycle shall constitute overtime. As used in this sentence, "day" shall mean a 24-hour period commencing at 8:00 a. m. of one calendar day and concluding at 8:00 a. m. of the following calendar day. This subsection shall be limited by the provisions pertaining to change of shift and changes between shift assignment and 40-hour workweek assignment.

(2) Effective May 16, 2005 an employee required to work in excess of such regularly scheduled shifts shall be compensated for each overtime hour worked at the rate of one and one-half (1 ½) times the employee's straight time rate of pay based on a fifty six (56) hour work week.

(3) Change of Shift. If the shift assignment of an employee who is assigned to a shift is changed while the currently used work schedule is in effect, authorized work time shall not constitute overtime if the following schedule is maintained:

(a) Change from "A" Shift to "B" Shift Employee works first two shifts of "A", then takes 3 days off, then starts on "B".

(b) Change from "A" Shift to "C" Shift: Employee works first two shifts of "A", then takes 2 days off, then starts on "C".

(c) Change from "B" Shift to "A" Shift: Employee works first two shifts of "B", then takes 2 days off, then starts on "A".

(d) . Change from "B" Shift to "C" Shift: Employee works first two shifts of "B", then takes 3 days off, then starts on "C".

(e). Change from "C" Shift to "A" Shift: Employee works first two shifts of "C", then takes 3 days off, then starts on "A" .

(f). Change from "C" Shift to "B" Shift: Employee works first two shifts of "C", then takes 2 days off, then starts on "B".

(4) Shift exchanges between personnel and standby exchanges shall not be considered overtime.

(c) Change Between Shift Assignment and 40-Hour Workweek Assignment

If the assignment of an employee is changed from a forty (40) hour workweek to a shift assignment, or vice versa, authorized work shall constitute overtime only if within the period in which the change was made the total number of authorized hours would exceed the sum of the following:

(1) 8 hours per day for the portion of the period during which the employee was on shift, and

(2) 5.714 hours per day for the portion of the period during which the employee was on the 40-hour workweek. As used herein, "the period within which the change was made" consists of the incomplete portions of the 40-hour workweek and shift cycle immediately before or after the date of change.

Overtime shall be calculated and paid to the nearest one-quarter hour (15 minutes) increment. As an illustration, an employee who worked in excess of 25 minutes would record 30 minutes on their time sheet.

(d) Payment for Fair Labor Standards Act (FLSA) Overtime

Both parties agree and accept that as of August 14, 2001 the City of San Bruno's declaration of a 7-k exemption related to the calculation of FLSA Overtime and agree to incorporate FLSA mandated overtime compensation by paying said overtime at a rate of 2.735% of an employees base salary per pay-period. The fifty-six (56) hour tour of duty shall be calculated within a twenty-seven (27)day work period.

(e) FLSA Overtime as Compensatory Time Off (CTO)

Effective as of January 1, 2002 and coterminous with implementation of new Holiday Leave Pay program, the City agrees to allow employees the option of having overtime earned at the rate of time and one half (1 1/2) hours actually worked into a Compensatory Time Off (CTO) bank subject to the following limitations:

(1) Effective May 16, 2005 the maximum number of hours an employee may bank is 112 hours. Any overtime hours in excess of 112 will be paid in cash. For purposes of implementing the changes to holiday time Section 16.2, the maximum may on a one time basis, exceed 112 hours; all overtime worked will be paid in cash until the amount of hours in the bank is reduced to below 112. .

(2) The requests for time off shall be made at least 48 hours n order to assure proper shift staffing; however, this time limit may be waived if the operation of the Fire Department is not impaired and proper shift staffing is assured.

(f) Non Suppression Assignment Minimum Overtime

Effective May 16, 2005 compensation for non-suppression assignment overtime shall be earned at a minimum of three (3) hours and shall be compensated either in pay or compensatory time at the rate of one and one-half times the regular straight-time rate of pay of the employee subject to Section 15.2 (e).

**Section 15.3 Overtime Lists**

(a) Except in emergency situations, overtime lists shall be used to determine which employee will be called to work overtime. An employee may be subject to mandatory over-time. There shall be one list for 24-hour shifts and another list for shorter periods of service. The order of the lists in effect on the date of January 20, 1983, are as set forth in Appendices "B" and "C" hereto.

(b) The overtime lists shall be maintained at Central Headquarters Station 51. If such lists are changed or defaced without the authority of the Fire Chief, s/he may remove such lists from said bulletin board.

(c) Initial placement on the overtime list shall be based upon seniority within the department. The chief officer may decline to call a probationary Fire Fighter into service from the list in a situation where the chief officer does not believe that such Fire Fighter has sufficient experience to fill a position. When such Fire Fighter is not called from the list in such situation, s/he shall not lose his/her turn on the list.

(d) When an employee is called from the overtime list for an overtime assignment and declines to take the assignment on account of sickness, s/he shall not

lose his/her turn on the list.

(e) Overtime lists shall be used whenever an employee is to be assigned to work which would constitute overtime for that employee; provided, however, that use of overtime lists shall not be required when:

(1) The chief officer assigns Division Chiefs to work on shift;

(2) The chief officer changes assignments of employees from one shift to another in accordance with the schedule described in Section 15.2(b) (3), or between a shift assignment and a forty (40) hour workweek where authorized work does not constitute overtime under Section 15.2(c);

(3) The chief officer changes an assignment of an employee from a forty (40) hour workweek to a shift assignment in connection with the absence of another employee where the employee being reassigned would be scheduled to work at least two (2) consecutive shifts which the absent employee would have normally worked;

(4) An emergency exists. As used herein, "emergency" shall mean any situation in which, in the judgment of the chief officer, the immediate need for additional personnel is of sufficient importance that there is no time to refer to the list.

(f) Notwithstanding any other language in this section, an employee may not work more than 96 consecutive hours. Additionally, any employee who has worked 96 consecutive hours shall be off duty for a minimum of 24 hours. The Fire Chief may make exceptions to this section based on emergency needs or incidents such as strike teams

(g) Nothing herein shall require the chief officer to staff any fire station with any minimum number of personnel.

## **Section 16. Holidays**

### **Section 16.1 Holiday Pay: Employees on 40-Hour Workweek**

(a) Regular full-time employees working a forty (40) hour work-week shall be entitled to observe all authorized holidays at full pay, not to exceed eight (8) hours for any one (1) day, provided they are in a pay status on both of their regularly scheduled workdays immediately preceding and following the holiday.

(b) Any employee who is required to work on any of the holidays specified in subsection (d) shall be paid one and one-half (1-1/2) times the employee's regular straight-time rate of pay for all hours actually worked on such holiday.



(c) In the event any of the holidays specified in subsection (d) occurs while an employee is on vacation, the holiday shall not be charged to vacation.

(d) The following are the eleven (11) authorized holidays:

New Year's Day	Veterans Day
Martin Luther King Day	Thanksgiving Day
President's Day	Day after Thanksgiving Day
Memorial Day	Day before Christmas Day
Independence Day	Christmas Day
Labor Day	

(e) If a holiday falls on a Sunday, such holiday shall be observed on the Monday following. If a holiday falls on Saturday, such holiday shall be observed on the previous Friday.

(f) The day before Christmas shall be observed as follows:

If Christmas Day falls on:    Day before Christmas is observed on:

Monday	Tuesday following
Tuesday	Monday before
Wednesday	Tuesday before
Thursday	Friday after
Friday	Thursday before
Saturday	Thursday before
Sunday	Friday before

(g) Personal Leave Bank

Each employee of this bargaining unit assigned on a regular basis to work a 40 hour week schedule shall have a Personal Leave Bank. The bank shall be maintained by the Finance Department and reported to the employee by means of a payroll stub entry.

New employees shall begin with a balance of zero (0). Each year on the employee's birthday, the employee's leave bank shall be credited with eight (8) hours of personal leave. The leave bank shall also be credited with eight (8) hours of leave each year on February 12 and September 9, in recognition of prior holidays for Lincoln's Birthday and Admission Day, respectively. Similarly, on Good Friday each year the employee's leave bank shall be credited with four (4) hours of leave.

An employee desiring to take personal leave must make such request in

writing to the department head at least seven (7) days prior to the proposed leave, unless otherwise agreed to by the City. Approval of such time off shall be subject to the operating requirements of the department in which the employee works. Employees will be permitted to accumulate up to a maximum of forty-eight (48) hours in personal leave.

Employees will also be allowed to borrow against future accruals by overdrawing the bank by up to twenty-four (24) hours. Upon termination of employment, an employee shall be paid in a lump sum for all hours remaining in the leave bank, at the employee's final straight-time rate. In the event that an employee leaves City employment with an overdrawn leave bank, the employee shall reimburse the City for the deficit, at the employee's final straight-time rate.

### **Section 16.2 Holiday Leave Time: 56 Hour Shift Personnel**

The following current provisions shall be effective until December 31, 2005 at which point the revised holiday provisions shall be effective.

(a) Personnel assigned to shifts shall be provided with a total of 7.27 shifts (i.e., 24-hour periods) of either additional pay or additional pay and paid time off in lieu of observing the individual holidays granted to other City employees at various times throughout the course of the year. Each employee shall accrue 6.71 holiday hours in each bi-weekly pay period. (Historical Note: The holiday hours are based on 11.2 shift hours for each of the holidays listed in 16.1(d) and (g) Personal Leave Bank plus 1/2 shift (12 shift hours) additional compensation for holidays other than those listed in 16.2(b) which employees covered by this MOU are normally scheduled to work)

Holiday Leave Time shall be provided in the following manner at the choice of the employee:

- (1) Paid 6.71 hours per bi-weekly pay period.
- (2) Paid 5.78 hours per bi-weekly pay period with one (1) 24 hour shift that may be taken as paid time off.
- (3) Paid 4.85 hours per bi-weekly pay period with two (2) 24 hour shifts that may be taken as paid time off.
- (4) Paid 3.92 hours per bi-weekly pay period with three (3) 24 hour shifts that may be taken as paid time off.

Employees will make an annual selection once each year and may not change that choice until the next annual selection period. If an employee neglects to submit an annual selection form they will be paid at 6.71 hours per bi-weekly pay period.

(b) In addition to the foregoing, 56 hour shift personnel shall continue to receive compensatory time off whenever they work on their regularly scheduled shift and it falls on any day of the following City holidays: New Year's Day, Independence Day, Thanksgiving Day, and Christmas. Compensatory time shall be granted at one-half (1/2) the time actually worked.

(c) If the needs of the Fire Department can be accommodated as determined solely by the Fire Chief, employees working shifts may split their holiday leave.

(d) Shift employees may be permitted to accumulate up to but no more than two hundred (200) holiday hours. Those shift employees who have accumulated more than the total hours permitted shall be assigned dates in which to take excess holiday hours over the 200 hours permitted by the Fire Chief or be paid at the 56-hour rate at the City's option.

Effective January 1, 2006, these provisions shall replace section (a) through (e):

(a) Personnel assigned to shifts shall be provided with 7.27 shifts (174.48 hours) of holiday time. Holiday leave time shall be compensated by paying each employee 6.71 hours per bi-weekly pay period.

(b) In addition to the foregoing, 56 hour shift personnel shall continue to receive compensatory time off whenever they work on their regularly scheduled shift and it falls on any day of the following City holidays: New Year's Day, Independence Day, Thanksgiving Day and Christmas Day. Compensatory time shall be granted at one-half (1/2) of time actually worked.

(c) If the needs of the Fire Department can be accommodated as determined solely by the Fire Chief, employees working shifts may split their holiday leave. This section will be obsolete effective 1/1/06.

(d) All holiday time banked effective with ratification of this agreement (May 16, 2005) shall be converted to compensatory time on an hour for hour basis. The City recognizes that this conversion will result in some employees exceeding the maximum for Compensatory time. The City is agreeable to this occurring on a one-time basis. As noted in Section 15.2, such employees will be paid cash for all overtime worked until the Compensatory Time bank is reduced below 112 hours. Employees who have scheduled holiday time as of May 16, 2005 will be permitted to retain sufficient holiday time in the holiday time bank to cover this scheduled time off. Any hours remaining in the holiday bank as of December 31, 2005 shall be converted to compensatory time off.

### **Section 16.3 Holidays: Employees Changed between Shift Assignments**

### **and Forty (40) Hour Workweek Assignments**

#### **(a) Employees Assigned from 40-Hour Workweek to Shift**

When an employee is reassigned from a forty (40) hour workweek to a shift assignment, s/he shall be entitled to 11.2 shift hours off duty for every holiday remaining in the calendar year.

#### **(b) Employees Assigned from Shift to 40-Hour Workweek**

When an employee is reassigned from a shift assignment to a forty (40) hour workweek, the number of shifts accrued pursuant to Section 16.2 (a) shall be converted to forty (40) hour workweek hours by multiplying such number of shifts by twenty-four hours (24) and dividing the product by 1.4.

### **Section 16.4 Lump Sum Payment on Termination of Employment**

Employees who terminate employment shall be paid in a lump sum for all unused holiday leave in accordance with the provisions of this section.

## **Section 17. Vacation Leave**

### **Section 17.1 Vacation Allowance: Employees on 40-Hour Workweek**

(a) Regular full-time employees working a forty (40) hour workweek who have been in the service of the City for a period of one year or more shall be entitled to vacation leave as follows:

Upon completion of the initial one year period of employment such employee shall be credited with ninety-six (96) hours of vacation leave. Thereafter, vacation leave shall be earned in accordance with the following schedule:

<u>Length of Service</u>	<u>Vacation Hours Earned Bi-Weekly</u>
1 - 5 years	3.69 hours
6 - 10 years	4.92 hours
11th year	5.23 hours
12th year	5.38 hours
13th year	5.64 hours
14th year	5.85 hours
15th year	6.15 hours
16 - 20 years	6.46 hours
21 - 24 years	6.72 hours
25 and more	6.97 hours

(b) No such employee may accumulate more than two-hundred and forty (240) hours of vacation leave. Upon approval of the City Manager, an eligible employee may defer forty (40) hours current vacation leave to the succeeding calendar year. Additional accumulation not exceeding forty (40) hours may be made by permission of the City Manager.

Employees of this bargaining unit shall receive notice of their bi-weekly accrual upon completion of each pay period.

With written permission from the City Manager, employees in this bargaining unit may accumulate 40 hours more than the maximum annual accumulation stated above.

Employees who terminate employment shall be paid in a lump sum for all unused vacation leave in accordance with the provisions of this section upon or prior to the date of termination.

No additional vacation leave credit will be earned should an employee exceed their maximum accrual hours set forth above. Employees will be provided an opportunity to request consideration to exceed this level if they have documented plans for use of vacation leave with a reasonable time period subject to approval by the City Manager or upon recommendation of the Fire Chief if the department is not able to allow an employee to use vacation leave time.

(c) The City Manager may require any employee to use at least eighty (80) hours vacation leave in a calendar year to the extent such vacation leave has been accumulated.

(d) Employees who terminate employment shall be paid in a lump sum for all unused vacation leave in accordance with the provisions of this section prior to the date of termination.

(e) The times during the year at which an employee shall take vacation shall be determined by the Fire Chief with due regard for the wishes of the employee, and with particular regard for the needs of the department. When conflicts arise, seniority shall govern.

### **Section 17.2 Vacation Allowance: 56 Hour Shift Personnel**

(a) Each employee assigned to work a shift who on the most recent anniversary date of his/her employment shall have been in the service of the City for a period of one (1) year or more shall be entitled to an annual vacation equivalent to the following number of shifts with pay for the following periods of service prior to such anniversary date:

YEARS OF SERVICE	NUMBER OF SHIFTS	EQUIVALENT NUMBER OF HOURS
1 - 5	6	144
6 - 10	8	192
11	8.5	204
12	8.75	210
13	9.17	220
14	9.5	228
15	10	240
16 - 20	10.5	252
21 - 24	10.92	262
25 and more	11.33	272

(b) The City shall schedule each employee's annual vacation period and holiday time to commence with the shift immediately following his/her four (4) consecutive off periods in his/her established duty cycle; provided, however, that an employee may commence his/her vacation on a different shift with the approval of the Fire Chief.

(c) If the needs of the department can be accommodated as determined solely by the Fire Chief, employees on shift may be permitted to split their vacations into two (2) or three (3) periods of approximately equal duration. Seniority will control the selection of vacation periods.

(d) Shift employees who terminate employment shall be paid in a lump sum for all unused vacation leave in accordance with the provisions of this section.

(e) Shift employees may be permitted to accumulate up to but no more than four hundred and twenty (420) vacation hours. Those shift employees who have accumulated more than the total hours permitted shall be assigned dates in which to take excess vacation hours over the 420 hours permitted by the Fire Chief.

Employees of this bargaining unit shall receive notice of their bi-weekly accrual upon completion of each pay period.

With written permission from the City Manager, employees in this bargaining unit may accumulate 40 hours more than the maximum annual accumulation stated above.

Due to the nature of the vacation planning calendar process, the City shall give consideration to the situation where an employee who has scheduled vacation leave time on the department planning calendar and who exceeds the maximum accrual level in the interim time period but will be under the maximum accrual level upon using his or

her scheduled time off. Note: use of this clause requires that the employee have scheduled such time during the annual vacation/holiday planning period.

Employees who terminate employment shall be paid in a lump sum for all unused vacation leave in accordance with the provisions of this section upon or prior to the date of termination.

No additional vacation leave credit will be earned should an employee exceed their maximum accrual hours set forth above. Employees will be provided an opportunity to request consideration to exceed this level if they have documented plans for use of vacation leave with a reasonable time period subject to approval by the City Manager or upon recommendation of the Fire Chief if the department is not able to allow an employee to use vacation leave time.

### **Section 17.3 Vacation and Holiday Accruals**

(a) The existing seniority selection process for vacation and holidays which temporarily allows negative or positive accrual balances shall be maintained, but no negative balance shall be permitted to exceed 84 hours. As used herein, a "negative balance" means an excess of time used over time accrued. A "positive balance" means an excess of time accrued over time used.

(b) The City shall have the right to continue to use a computerized method of recording vacation and holiday accruals on a pay period basis and to report balances to employees with their paychecks.

(c) In the event an employee terminates his/her employment with the City with a negative balance, the City may withhold a sufficient sum from his/her final payment of compensation to eliminate such balance, and to the extent that such method is insufficient to eliminate such balance the employee shall be responsible for any necessary reimbursement to the City. Correspondingly, the City agrees to pay all positive balances to employees who terminate their employment.

### **Section 17.4 Catastrophic Leave Program**

The City shall provide for a Catastrophic Leave Program as a part of the city's administrative policy directives as developed by the City Manager. The City agrees to meet and confer with the Union as to any changes in this administrative procedure.

## **Section 18. Leave Time Programs**

### **Section 18.1 Sick Leave**

(a) Sick leave shall not be considered a privilege which an employee may

use at his/her discretion, but shall be allowed only in case of necessity and actual sickness or disability, except as provided in subsection (e). In addition, sick leave may be used by an employee, subject to the limiting conditions outlined in Section 18.2, Bereavement Leave, upon the death of an aunt, uncle, nephew, niece, great-grandchild or great-grandparent.

(b) For shift personnel, sick leave shall be accrued at a rate of twelve (12) hours for each calendar month of service. For employees on a 40-hour workweek, sick leave shall be accrued at a rate of eight (8) hours for each calendar month of service.

(c) There shall be no limitation on the amount of sick leave which an employee may accumulate.

(d) Sick leave, vacation leave, and holiday leave shall not accrue when the employee is on leave without pay.

(e) Sick leave may be used for any disability, whether temporary or permanent, by injury or illness arising out of and in the course of the duties of the employee. In the event sick leave is taken by an employee instead of a leave of absence for industrial disability granted by state law where there is a bona fide dispute between the City and the employee as to whether the disability is industrial, and such dispute is resolved in favor of the employee, any sick leave which was erroneously deducted from the employee's accumulated sick leave shall be restored to the employee.

(f) Procedure In order to receive compensation while absent on sick leave the employee shall notify his/her immediate supervisor prior to 7:00 a.m. If the employee becomes ill while away from his/her residence the employee shall notify the supervisor of his/her location, including address and telephone number. If circumstances permit, the employee's supervisor may direct the employee to return to his/her residence. The supervisor shall not unreasonably require the employee to return to his/her residence.

(g) Availability for notification

(1) An employee who is absent on sick leave is expected to be available to answer telephone calls by or from his/her supervisor in relation to the illness, injury, disability, or work-related matters. No employee shall unreasonably refuse to answer a telephone call from a supervisory employee for such purpose.

(2) An employee who is absent on sick leave who within one (1) year of such absence has been notified in writing by the department head that the amount of sick leave used by the employee is excessive or is an abuse of the sick leave privilege is also expected to receive visits by or from his/her supervisor in relation to the illness,



injury, disability, or work-related matters. No such employee shall unreasonably refuse to receive a visit from a supervisory employee for such purpose.

(h) Signed statement When an employee has been absent on sick leave, upon return s/he shall submit to the department head a personally signed statement indicating the nature of the illness, injury, or disability. Such shall be on the form prescribed by the City for such purpose which is currently in use.

(i) Medical certificate When an employee returns after an absence on sick leave for more than one shift, the department head may require him/her to submit a certificate signed by a licensed physician indicating the nature of the illness, injury, or disability, in addition to the signed statement required pursuant to subsection (j). If an employee has within one (1) year of an absence on sick leave been notified in writing by the department head that the amount of sick leave used by the employee is excessive or is an abuse of the sick leave privilege, the department head may require such employee to submit such a certificate when the latter returns after absence of one shift or more. The City agrees to pay for the cost of obtaining said certificates to the extent that the employee's health insurance coverage does not do so.

(j) Suspension of sick leave When, in the sole opinion of the City Council, a job action exists, it shall have the authority to suspend the use of sick leave benefits for the duration of the job action, retroactive to the beginning of such job action. As used herein, "job action" includes, but is not limited to, any strike, slowdown, stoppage of work, curtailment of production, concerted refusal of overtime work, refusal to operate designated equipment, or to perform customary duties due to any labor dispute, or any concerted refusal to appear at any assigned work station because of claimed or asserted sicknesses or disabilities.

(k) Termination of employment Upon termination of employment as a result of retirement, death, or abolition of position, the following amount of unused sick leave shall be paid on termination of employment: (1) Employees who have completed 20 or more years of City service as a full-time employee: fifty percent (50%) of unused sick leave, or 864 hours, whichever is less; (2) Other employees: fifty percent (50%) of unused sick leave, or 720 hours, whichever is less. The effective date of such retirement shall not be deferred by the allowance of the employee to use his/her accumulated sick leave, but such employee shall be required to take the lump sum payment for unused sick leave as soon as and to the extent possible.

(l) Family sick leave With the approval of the department head an employee may use up to one half of the employee's annual accrual of sick leave when illness of a member of the immediate family of the employee residing with the employee's immediate household requires the employee to take care of the sick person. For the purpose of this section, the term "immediate family" shall be restricted to father, mother, brother, sister, spouse, domestic partner, child, mother-in-law, father-in-law,

grandparents, grandchildren, step-children, foster children, great-grandparents, and great-grandchildren. In the event the employee is relieved of this required presence before 8:00 p.m. (in case of a shift employee) the employee shall notify the designated Fire Captain at Station 51 and shall report to duty to complete the shift. (Example: a fire fighter with a working spouse may be called off duty to tend for his/her child, but could be relieved by the spouse when the latter returns from his/her work.)

### **Section 18.2 Bereavement Leave**

In the event of a death in the immediate family of an employee, the employee shall, upon written request to the department head, be permitted to use bereavement leave within a 72-hour period, as is necessary to make arrangements for the funeral and attend same. The number of hours of bereavement leave used for such purpose shall depend upon the particular work scheduled to which the employee was assigned during such 72-hour period.

This provision does not apply if the death occurs during the employee's paid vacation or while the employee is on leave of any kind. Only in the event that the funeral takes place at a location more than 150 miles away from the City of San Bruno will reasonable time off for travel be allowed, not to exceed one (1) regularly scheduled

work shift. For the purposes of this provision, the immediate family shall be restricted to father, mother, brother, sister, spouse, domestic partner, child, mother-in-law, father-in-law, grandparents, grandchildren, step-children and foster children.

Bereavement leave applies only in the instance in which the employee attends the funeral, or is required to make funeral arrangements but is not applicable for any purpose, such as settling the estate of the deceased.

The City Manager may grant bereavement leave for deaths of other persons if s/he determines that special circumstances are applicable.

### **Section 18.3 Jury Duty Leave; Leave for Court Appearances**

(a) Any employee who is called and required to serve as a trial juror shall be entitled to absent himself/herself from his/her duties during the period of such service or while necessarily being present in court as a result of such call. Under such circumstances, the employee shall be paid the difference between his/her full salary and any payment received except travel pay, for such duty. Whenever an employee receives a written notice from a court indicating that the employee will be subject to jury duty within a specified period of time s/he shall furnish the employer a written copy of the notice from the court as soon as practical. If such employee is subject to being called in to the court for jury duty on a stand-by basis s/he shall so inform the officer in charge.

(b) When, in the opinion of the Fire Chief, an employee's absence from duty would pose an undue burden or hardship upon the efficient operation of the department, the Fire Chief may request relief from the appropriate agency for the employee serving as a juror.

(c) An employee who has been subpoenaed as a witness in his/her official capacity shall be paid:

(1) His/her regular salary, less any witness fee received, if s/he is required to appear as a witness while scheduled to be on duty, or

(2) One and one-half (1-1/2) his/her regular salary, less any witness fee received, if s/he is required to appear as a witness while scheduled to be off duty.

(d) An employee who has been subpoenaed as a witness in his/her private capacity shall not be paid for the time s/he is not on duty, but may use compensatory time, vacation time, or shift exchange.

(e) In the event an employee is relieved of his/her required presence as a juror or a witness prior to 8:00 p.m. on a day when s/he was regularly scheduled to work a shift, s/he shall notify the officer in charge and report to duty to complete the shift.

#### **Section 18.4 Leave of Absence**

(a) The City Manager may grant a permanent employee a leave of absence with or without pay or benefits not to exceed one year. A request for such leave shall be in writing and shall be approved or denied by the City Manager in writing.

(b) The City Manager may terminate such leave of absence prior to scheduled expiration of the leave upon notice to return to duty if s/he determines that the circumstances justifying the leave do not exist or if the needs of the City justify termination of the leave.

(c) Upon expiration of a regularly approved leave, or within ten (10) days unless an extension or need for an extension is identified and approved by the City Manager, the employee shall be reinstated in the position held at the time leave was granted. Failure on the part of an employee on leave to report promptly at its expiration, or within ten (10) days after notice to return to duty, shall be cause for discharge.

An employee who has requested a leave of absence for medical reasons may be required to complete a fitness for duty evaluation to determine that the employee is capable of performing the duties of the job. The employee shall submit a medical certificate which indicates the employee's personal or treating physician is releasing

them to return to duty. Any limitations or exceptions must be included in the medical certification. The City of San Bruno reserves the right, at its expense, to send the employee to a physician of its choice for further evaluation. The final determination as to whether the employee is fit for duty shall be made by the City Manager or designee.

### **Section 18.5 Pregnancy Condition**

Pregnancy itself is by definition a medical condition. As such, an employee who is pregnant and under medical treatment for such condition or related situation, has the option to utilize several different leave benefit programs. In addition, there are provisions in California State and federal law which make leave without pay available to parents as a result of the birth or adoption of a child. As such, a combination of leave options are available for an employee to use as best fits their individual needs including those listed below. An employee should consult the appropriate MOU sections and/or city administrative policy directives as developed by the City Manager which governs those benefits or programs for applicability:

(a) Sick leave as provided for by the City for employee use when medically required. Doctor's certification required.

(b) Vacation leave when used in accordance with existing use provisions.

(c) Compensatory Time Off or administrative leave available to the employee in accordance with existing use provisions.

(d) In addition, the City shall provide leave time and/or benefits in accordance with the provisions of current and/or future California State law and federal law governing the birth or adoption of a child, parental leave rights and/or an individual employee's medical condition.

The details and procedures outlining the City's compliance with these state and federal policies shall be outlined in city administrative policy directives as developed by the City Manager.

As an illustration, the maximum possible combined leave entitlement for both pregnancy disability leave (under FMLA and Government Code Section 12945, subdivision (b) (2) and CFRA leave for reason of the birth of a child is four months and 12 workweeks. This assumes that the employee is medically disabled by pregnancy, childbirth or related medical conditions for four (4) months and then requests, and is eligible for, a 12 workweek CFRA leave for reason of the birth of her child)

### **Section 18.6 Industrial Disability Leave**

Industrial disability leave for Fire Fighters and Fire Captains shall be governed

by Section 4850 of the Labor Code, as presently worded or subsequently amended.

### **Section 18.7 Military Leave**

(a) Military leave shall be provided for in accordance with state law and federal law. All employees entitled to military leave shall give the appointing power an opportunity within the limits of military regulations to determine when such leave shall be taken.

(b) Military leave shall be provided for in accordance with state and federal law. Any organizational requirements shall be contained in either the departmental or city administrative policy directives as developed by the City Manager.

### **Section 18.8 Light Duty**

Employees with industrial or non-industrial injuries may be eligible to return to work in a modified or light duty capacity. Such return is dependent on the physician's determination that the employee may return to work with limitations. The Fire Chief has the final determination of whether light duty is available.

If light duty is available, shift personnel assigned to light duty will work 8 hours for every 24 hour shift. The hours will be set following discussion between the employee and an appropriate Chief Officer at a mutually agreed schedule. The Chief Officer will attempt to coordinate the employee's shift with the employee's normal shift schedule and balance the needs of the department with the personal schedule of the employee. The Fire Chief shall have final determination on work schedules.

### **Section 18.9 Domestic Partner Benefits**

The parties agree that the city may request a reopener on provisions in the MOU that relate to domestic partnership due to legislation implemented in 2005.

## **Section 19. Health and Welfare Related Benefits**

### **Section 19.1 Medical, Dental and Vision Insurances**

Each regular full-time employee and each permanent part-time employee of this unit shall become eligible to participate in "Teamsters Local Union No. 856 Health and Welfare Trust Fund," provided, however, that participation in the fund shall not be denied to eligible employees who are not members of the Union. Temporary employees and temporary part-time employees who are employed by the City for a period of ninety (90) days shall also be eligible to participate in said fund.

For purposes of providing health and welfare benefits for regular full-time and

permanent part-time employees subject to this MOU the City shall contribute an agreed upon amount to the trust fund on a monthly basis on behalf of each eligible employee for actual costs incurred by such Fund to provide and maintain at existing levels of coverage hospital, medical, dental care, prescription drugs, vision care, and retiree health benefits.

a) City will agree to increase it's health and welfare contribution to \$775 per month effective July 1,2004.

b) City will agree to increase its health and welfare contribution by \$25.00 to \$800 effective March 2005. The March 2005 contribution increase is contingent on the following: Prior to the March 2005 contribution increase the City and Teamster's Union shall meet and confer with regards to the restructuring of the existing health plan to make the plan more affordable to employees or for the purpose of presenting and evaluating alternative health plans.

c) City will agree to increase it's health and welfare contribution by \$25.00 to \$825 effective January 1,2006.

(d) Health and Welfare contribution adjustments after March 1, 1998 will be made annually as of the first of November 1998, 1999 and 2000 respectively. The Union shall submit a request for contributions up to the maximum allowable amount by October 1 annually of each year. Such request shall be supported by evidence of Trust Fund documentation reflecting actual increased costs. No other adjustments shall be permitted during the term of MOU.

(e) It is agreed that the above identified amounts are maximum amounts which may be exceeded only by any carryover amount from prior year's premium not needed.

(f) An eligible employee with respect to whom monthly contributions are required shall mean any employee on the payroll on the first day of any calendar month who has been on the payroll of the City eighty (80) hours or more during the preceding calendar month. Said contribution shall institute full compliance with and full performance of all obligations of the City to provide health and welfare benefits for its employees.

(g) During the term of this MOU the parties herein reserve the right to request the other party to meet and confer on the subject of this section for the purpose of reviewing and considering a competitive proposal from the requesting party for the obtaining of equal or comparable health and welfare benefits for covered employees at no additional or less cost to the City.

(h) The City agrees to discuss with Union the development of a trust fund or

annuity with a third party provider such as ICMA or other vendor to allow employees to use sick leave payoff at retirement as a vehicle to provide for contributions for retiree medical coverage as a side issue outside these negotiations. Said discussions shall begin no later than 30 days following ratification of this agreement and no later than 90 days after ratification of this agreement.

### **Section 19.2 Life Insurance**

(a) The City shall provide, at its expense, a term life insurance group policy for Fire Fighters and Fire Captains in an amount equal to the employee's annual base salary as stated in "Exhibit A" of this MOU. Income tax consequences, in conformance with IRS regulations, will be the responsibility of the employee.

(b) Said employees shall be entitled to purchase, at their own expense, additional term life insurance to the extent permitted by the policy carrier under such terms and conditions as are customarily imposed by such carrier in its normal course of business.

### **Section 19.3 PERS Retirement Membership:**

(a.) Employees in the classification of Fire Captain and Firefighter shall be covered by three percent (3%) at age fifty (50) retirement benefit option provided through the Public Employees Retirement System (PERS) and the 1959 Survivors' Benefit (Level IV). Final compensation for purposes of calculating retirement benefits shall be based upon the highest average annual compensation earned by the employee the last consecutive year of employment preceding the date of retirement.

(b) In 1998 the City agreed to offer Level IV 1959 Survivor's Benefits for local fire members. It was understood that there was an increased cost to both the employer (agency) and member (employee) rate. The association has agreed that all employees in the bargaining unit shall be responsible, through payroll deduction, for paying both the appropriate member (employee) rate for this program and any employer contribution which exceeds \$2.50 per month. As of this date (2001), current employee cost is projected to be \$2.00 per month and current employer cost is projected to be \$8.50 per month resulting in an individual employee payroll deduction of \$8.50 per month. These costs may change by implementation date and the then current costs shall be used to determine the accurate employee payroll deduction amount.

### **Section 19.4 Deferred Compensation Programs**

Consistent with the provisions of Resolution No. 1984-48 Authorizing and Approving a Deferred Compensation Plan for Participating Employees and Replacement of Resolution No. 1983-42, the City shall permit employees of the bargaining unit, to the extent permitted by law, to voluntarily participate in one of the

City's designated deferred compensation programs.

(a) No mandatory City contributions to such plans or administrative expense shall be required of the City. Costs charged to an employee's individual deferred compensation account by the plan provider shall not be deemed to be an administrative cost of the City.

(b) The City agrees to meet and confer with the union, at their request, should the Internal Revenue Code be amended so as to adversely impact the intended purpose of the adopted deferred compensation program. However, it is understood that the City must adhere to all Internal Revenue Code provisions and regulations applicable to a deferred compensation program.

### **Section 19.5 Long-Term Disability (LTD) Insurance**

The City agrees to include personnel in this bargaining unit in a City-wide Long-Term Disability (LTD) insurance program provided at the City's expense.

### **Section 20. Fire Service Education And Certification Incentive Pay Program**

Employees represented in this bargaining unit are eligible to participate in this program. Employees must present a copy of their college degree and appropriate State Fire Marshal's certification in the appropriate field in order to receive additional incentive pay. Additional incentive pay shall be processed through use of a PAF form and shall begin the first pay-period after the employee submits acceptable documentation. Employees are eligible to receive up to a total maximum of 7.5% in Education and Certification Pay. Education and Certification Incentive Pay shall be paid on the employee's base salary rate and shall only be paid if the employee obtains and maintains certification(s) which have an expiration date.

The following Education/Certification tracks are presently available as of March 2001. The City may add additional certifications as they are introduced and approved by the State Fire Marshal's Office.

#### **Education/Certification Incentive Value**

BA/BS Degree in fire science, business, management, Public administration or closely related program.	4%
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Master's Degree in fire science, business, management, Public administration or closely related program. (includes 4% for BA/BS)	6%
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Chief Officer certification	3.5%
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Fire Marshal certification	3.5%
Master Instructor (or Level III Instructor) certification	3.5%
Fire Officer certification	2.5%
Driver Operator certification	2%
Fire Investigator certification (Level II)	2%
Hazardous Materials Technician certification	2%
Fire Protection Specialist certification	1.5%
Plans Examiner certification	1.5%
Fire Mechanic certification (Level 1)	1%
Fire Mechanic certification (Level II)	2%
Confined Space Train the Trainer certification	1.5%
Fire Inspector certification	1%
Fire Investigator (Level I) certification	1%
Public Education Officer certification	1%
Hazardous Materials Specialist certification	1%
American Red Cross or American Heart Assoc. Instructor	1%
SCBA Maintenance Industry certification	1%
Rescue Systems I & II successful completion	1%

Historical note: The past MOU provision of providing 3% for college credits and 6% for obtaining an AA/AS was eliminated. The base salary level of \$5817 for firefighter in 2001 reflects inclusion of the up to 6% AA/AS educational incentive pay. Those firefighters without an AA/AS would be grand-fathered in and the new minimum job requirement for firefighter would be paramedic certificate and/or related AA/AS degree.

## **Section 21 Tuition Reimbursement Program**

Effective July 1, 1994, the City will provide reimbursement for a combination of tuition and books at a rate of \$75/semester unit to a maximum of \$1,800/year over a consecutive 12 month period. Reimbursements for college courses based on the quarter system will be made at a prorated rate. Approval for reimbursement must meet the following requirements:

(1) Courses must be taken at an accredited public or private institution. Approval for courses taken at a private institution require the advance approval of the City Manager.

(2) The course of instruction taken by the employee must be job related and the employee must have obtained the prior approval of the department head and the City Manager, if appropriate, prior to taking the course in order to be entitled to reimbursement.

(3) For graded course work, the employee must receive a passing grade of 2.0 or above in a 4 point system, where 4.0 is an A, 3.0 is a B, etc., in order to

receive reimbursement. Written evidence to this effect must be submitted to the City.

(4) For courses graded on a pass/fail basis, the employee must receive a "pass" grade.

## **Section 22 Uniform Allowance**

It is understood that this uniform allowance is provided for the purposes of employee's compliance with departmental uniform requirements and that it is the responsibility of each employee to be in compliance with the departmental requirements at all times.

An employee hired prior to the adoption of this Memorandum of Understanding shall receive a uniform allowance on or about September 1 of each fiscal year.

Sworn personnel in this unit shall receive an annual uniform allowance of seven hundred and five dollars (\$705). This figure was adjusted to \$747 effective as of September 1, 2001 to reflect CPI adjustment to the \$705 figure.

Said uniform allowance shall continue to be paid in a lump sum distributed no later than September 1 annually. The Uniform Allowance shall be increased by the CPI index for the month of February (January CPI Index no longer published for SF) in September 2001, 2002 and 2003 respectively. The CPI adjustment factors shall be the same as used in the salary adjustment language.

The City shall pay the employee's PERS contribution for uniform allowance.

An employee hired after the adoption of this Memorandum of Understanding shall receive an initial uniform allowance in the amount specified in subsection (b) on or about his/her date of hire. On or about the first of September thereafter s/he shall receive a pro rata share of such allowance based upon the portion of the year elapsed between his/her anniversary date and the 30th of June prior to such date of payment. On each succeeding September 1 s/he shall receive the amount of uniform allowance specified in subsection (b).

## **Section 23 Assignment Duty Differentials and Incentive Pay Programs**

### **Section 23.1 Mechanic Assignment Duty**

Fire Fighters assigned the duties of shift mechanic by the Fire Chief will be compensated an additional five percent (5%) of base salary.

### **Section 23.2 Bi-lingual Incentive Pay Program**

Effective as of August 2001, the City is agreeable to development of such

a concept as a bilingual pay program with a 2.5% level of incentive pay.

### **Section 23.3 Paramedic Program**

The City of San Bruno participates in the Countywide ALS Paramedic program. Participation is contingent upon continued funding from the Emergency Medical Services Agency and may be discontinued or expanded at the discretion of the City.

The ALS Paramedic program utilizes certified paramedics and non-paramedic support personnel in the delivery of ALS services. The Paramedic Program Assignment description (attached) is an addendum to the Firefighter job description. Compensation and specific conditions for certified paramedics shall be as follows:

(a) **Paramedic Assignment Pay.** Firefighters with paramedic certification assigned to duty as a paramedic on an engine or truck company by the Fire Chief shall be compensated an additional nine percent (9%) with the understanding such compensation is related to performing the additional duties and responsibilities of a state licensed paramedic and the time and effort required of the employee related to the maintenance of their paramedic license. The City will directly reimburse the employee for cost of tuition for course(s), course materials and actual certification testing and licensure costs.

(b) **Fire Captain Paramedic Incentive Pay.** Fire Captains who elect to maintain paramedic certification shall be entitled to receive an additional two and one half percent (2.5%) of base pay for maintaining such paramedic certification. The City will directly reimburse the employee for cost of tuition for course(s), course materials and actual certification testing and licensure costs

(c) **Paramedic Continuing Education Unit (CEU) Reimbursement Pay.** Employees who are required to maintain their paramedic certification are eligible to receive an additional stipend in recognition of the time off duty required to maintain the required 48 hours of Continuing Education Units (CEU's) in a two (2) year period to renew their paramedic license. The stipend amount is payable to the employee in the first pay-period beginning in January annually for CEU's earned the year prior. The stipend amount shall be \$850 per year. If the City is able to provide CEU training time on-duty the City reserves the right to suspend Paramedic CEU Reimbursement Pay.

(d) **Paramedic Coordinator Assignment Duty.** Effective August 2001, Firefighters with paramedic certification assigned the duties of Paramedic Coordinator by the Fire Chief shall be compensated an additional five percent (5%) of base salary if they serve as the only coordinator and four percent (4%) of base salary if there is more than one employee serving as coordinator.

(e) **Fire Captains Assignment** Fire Captains are not eligible for assignment to the Paramedic program, however, Fire Captains who maintain certification as a Paramedic may voluntarily work overtime as a Firefighter Paramedic. If no Firefighter Paramedic volunteers for overtime work as a Firefighter Paramedic, a Fire Captain who maintains certification as a paramedic may work overtime. If mandatory overtime is necessary, a Firefighter Paramedic will be assigned mandatory overtime.

(f) **Assignment Basis Program** The City will utilize an assignment basis program to staff the paramedic program. An assignment basis program is defined as an established number of personnel delivering paramedic certified medical services on an assigned basis by the department. A minimum of twelve (12) paramedics are currently deemed necessary to staff the program. The City shall staff paramedics at the level required by the Countywide ALS JPA contract. The City will staff a minimum of two (2) paramedics on duty each shift, one paramedic per station. The Fire Chief has discretion as to the actual on-duty assignment of paramedics.

(g) **Availability** Firefighters who are assigned to the Paramedic Program must remain in the Paramedic Program and available for assignment. Firefighters assigned to the paramedic program may petition the Fire Chief to be removed from the program. No one assigned to the paramedic program may leave the paramedic program (other than to accept a promotion) unless a minimum number of certified paramedics are available. The Fire Chief may not unreasonably refuse to permit a paramedic hired prior to January 1, 2005 to leave the program. Firefighters hired after January 1, 2005 for which certification as a paramedic was a minimum qualification may be required to remain in the program for 15 years. In evaluating the minimum number of paramedics required to staff the program, the Chief may consider the number of Firefighter Paramedics on medical or worker's compensation leave, and known or anticipated retirements or promotions.

(h) **Qualifications** The City may use possession of a Paramedic certification as a screening requirement for all new hires, even though paramedic certification is not a mandatory requirement for Firefighter. The Fire Chief may require a Firefighter paramedic hired under this screening criteria to remain in the Paramedic Program.

(j) **Acting Captain** A Firefighter assigned to the Paramedic Program may serve as an Acting Captain provided a certified paramedic is available on duty to meet required paramedic staffing levels. Acting pay in such situation will be paid in accordance with Section 6.7 Salary Plan/Acting Pay.

(k) **Eligibility for Other Assignments** Firefighters participating in the paramedic program will remain eligible for other assignments including mechanic.

(m) **Training for Non-Paramedics** While the City will make an effort to provide training during on-duty time, compensation and travel expenses will not be

provided for any off duty training attended by Firefighters seeking to obtain qualification and certification to become a paramedic.

Historical Note: At the time the City began participation in the ALS Paramedic program, the base pay for Firefighter and Fire Captain were increased by 1.85%. As a result, any Firefighter or Fire Captain may be assigned to duty in a paramedic support position operating within the parameters of the Countywide ALS Paramedic Program.

## **Section 24. Discipline**

(a) The City may discharge, suspend, or demote any employee who has completed the probationary period for cause. No employee shall be discharged unless a written warning notice shall previously have been given to such employee regarding the employee's work or conduct, except that no such prior warning shall be required if the cause for the employee's discharge is a serious incident of dishonesty or insubordination, or use of illicit drugs, use of alcoholic beverages related to employment, or failure to perform as required.

(b) In cases where a prior warning notice is required prior to discharge, such discharge shall not necessarily have to be based on the same type of misconduct as that which gave cause for the prior warning notice. Any discharged, suspended, or demoted employee shall be furnished with the reasons for such action in writing, with a copy of such letter furnished to the Union.

### **Section 24.1 Letters of Reprimand Not Subject to Grievance Procedure**

Notwithstanding any other provision of this MOU, a Letter of Reprimand issued by the City to any employee shall be handled only in accordance with the provisions of this section, and shall not be subject to the grievance procedure as provided in Section 28.

(a) The employee shall have (30) days within which to file a written response. Such written response shall be attached to, and shall accompany the Letter of Reprimand.

(b) Upon written request of the employee, a Letter of Reprimand shall be purged from the employee's work record after retention for a period of twenty-four (24) months. This provision shall include removal of Letters of Reprimand issued prior to January 1, 1993.

(c) Within ten (10) calendar days after receipt of a Letter of Reprimand, the employee may, in writing, appeal such to the City Manager for administrative review. The City Manager shall, after affording the employee the opportunity to personally meet with him or her, consider the basis for issuance and such written and/or oral objections

presented by the employee. Thereafter, the City Manager shall either affirm, rescind, or otherwise modify the disciplinary action.

(d) In the event a Letter of Reprimand issued subject to this section is subsequently used to evidence that progressive disciplinary action has been considered in determining the extent of a more severe disciplinary action, such letter(s) with any employee response attached thereto as provided in paragraph (a) of this section, shall be submitted on appeal to the reviewing authority for such consideration as the reviewing authority deems appropriate.

## **Section 25. Pre-disciplinary Conferences**

(a) No regular employee shall be demoted, suspended, or discharged for a disciplinary purpose except in accordance with the provisions of this section; provided, however, that this section shall not apply to suspensions of less than five (5) days for employees working forty (40) hour workweeks, or to suspensions of less than three (3) shifts for shift employees.

(b) Whenever the City Manager proposes to demote, suspend, or discharge a regular employee in a case in which this section is applicable, the City Manager shall conduct an informal conference at which the employee shall have the right to respond to the charges. The City Manager shall provide the employee with written notice of the conference not less than five (5) days prior thereto. The notice shall state the nature of the proposed disciplinary action and the reasons therefore. The notice shall also include a copy of the charges and materials upon which the proposed action is based.

(c) At the conference, the employee shall have the right to present an oral and/or written response to the proposed action. Thereafter, the City Manager shall determine, based upon such response and the materials upon which the proposed action was based, whether to impose the action initially imposed, lesser action, or to take no action. The City Manager shall promptly notify the employee in writing of such decision.

(d) If, prior to the conference, the employee presents to the City Manager a written request that the City Manager disqualify himself/herself from conducting the conference due to bias or prejudice, the City Manager shall assign a designee having no supervisory control over the employee to conduct the conference. At the conclusion of the conference, the conference officer shall recommend to the City Manager the disciplinary action to be taken, if any, and the City Manager shall make the necessary determination and promptly notify the employee in writing of such decision.

## **Section 26. Suspension**

### **Section 26.1 Suspension without Pay**

An employee in a classification of employment set forth in Exhibit "A" hereto may be suspended without pay for a disciplinary purpose.

(a) Chief Officers shall have the power to suspend a subordinate employee without pay for not more than one work day or one work shift. The supervisor shall immediately notify the department head of the suspension. The department head shall have the power to rescind the suspension. The department head shall immediately notify the City Manager of the suspension in writing. The City Manager shall have the power to rescind the suspension, overturn a decision of a department head to rescind the suspension, extend the suspension, reduce the suspension, or issue oral or written reprimand in lieu of suspension.

(b) A department head shall have the power to suspend a subordinate employee without pay for not more than five work days (in the case of an employee working a 40-hour workweek) or two shifts (in the case of an employee working shifts). The department head shall immediately notify the City Manager of the suspension in writing. The City Manager shall have the power to rescind, extend, or reduce the suspension, or issue oral or written reprimand in lieu of suspension.

(c) The City Manager shall have the power to suspend a subordinate employee for an amount of time the City Manager deems appropriate.

(d) It is the intent of this section to allocate to the department head and to Chief Officers the power to impose minor suspensions without the approval of the City Manager, but with immediate notice to him/her, to enable the department head and supervisors to take immediate action to remedy employee misconduct which may pose an immediate threat to the health, safety, or welfare of other employees or to the public at large.

## **Section 26.2 Administrative Leave With Pay**

Chief Officers, a department head, or the City Manager shall have the power to place a subordinate employee on Administrative Leave With Pay status pending investigation of a matter in which the employee may be involved which may lead to disciplinary action against him/her, or pending consideration of possible disciplinary action against him/her, or where his/her continued presence would, in the judgment of the supervisor, department head, or City Manager, jeopardize his/her health or safety or that of others. A Chief Officer placing an employee on such leave shall immediately notify the department head, who shall immediately notify the City Manager. The City Manager has the power to rescind, extend or otherwise modify the employee's status.

## **Section 27. Grievance Procedure**

(a) Definition. A grievance is any dispute which involves the interpretation or application of any provision of this Memorandum of Understanding during its term, or any provision of the Personnel Rules, or written rules of the Fire Department. All ordinances, resolutions, rules and regulations, the subject of which is not specifically covered by this Memorandum of Understanding, the Personnel Rules, or the Fire Department rules, are excluded from the grievance procedure, and are not covered by the procedures set forth in this section.

(b) Initial presentation. The initial (first level) presentation of a grievance shall be to the immediate supervisor of the employee claiming to have a grievance. The grievance may be either oral or in writing. If made in writing, the grievance shall comply with the requirement of subsection (c) for a formally presented grievance.

(c) Formal presentation. The formal presentation of a grievance shall be written and shall state which provision of this Memorandum of Understanding, Personnel Rule, or Fire Department rule has been misapplied to his/her detriment, and shall indicate the redress sought. The grievance shall be signed by the individual allegedly aggrieved, the grievance may be signed by a duly authorized representative of the Union. If the grievance is signed by such Union representative the grievance shall indicate the names of those on whose behalf it is filed and shall state that the Union representative is authorized to file such grievance on behalf of such person. In the event the person to whom the grievance is presented determines that the grievance is defective on its face, s/he shall reply in writing to the filer within seven days after receiving the grievance, indicating in writing the specific defects. The reply shall specify that the grievant has ten days to correct the defects or the grievance shall be deemed to be withdrawn. If the grievance is not corrected within said ten-day period, it shall be deemed to have been withdrawn. This subsection is intended to avoid unnecessary grievances. The failure of an individual to file a grievance in a particular situation does not of itself establish a past practice. The fact that a probationary employee has filed a grievance or has authorized the Union to file a grievance shall not be taken into account by the City in any evaluation of his/her work performance.

(d) Time limits. Grievance shall be filed within 15 days of the incident or occurrence about which the employee claims to have a grievance.

(e) Representation. The grievant shall have the right at all steps of the grievance procedure to be represented by a person or organization of his/her own choosing.

(f) Effect of grievance. The making or filing of a grievance shall not prevent the City or any authorized employee of the City from taking action deemed appropriate, nor shall it have the effect of suspending action previously taken even though the action may involve or be part of the subject matter of the grievance.



(g) Disciplinary matters. In the event an employee feels that a discharge, suspension, or demotion is unjust, the employee shall have the right to appeal the case through the grievance procedure by filing a grievance through the City Manager within ten (10) days from the date the employee was notified of the action. Untimely appeals shall not be entertained under the grievance procedure. Upon the timely filing of a grievance, the provisions of subsections (n) through (r), inclusive, shall apply. The discharge of probationary employees shall not be subject to the grievance procedure.

The decision of the arbitrator on a disciplinary matter grievance shall be final and binding upon the parties, except as provided in this paragraph. The arbitrator shall not substitute his/her discretion for that of the City, and the City's decision or penalty will be upheld unless there has been a clear abuse of discretion on the part of the City.

(h) Days. The time limits provided herein refer to calendar days.

(i) Waiver of time limits. The time limits provided herein may be waived by the mutual consent of the parties.

(j) Department Head; Chief Officer.

(1) If Chief Officers are assigned to work 24-hour shifts, the following provisions of this paragraph shall apply:

A grievance which is not settled at the first level may, within 10 days of the decision of the supervisor, be appealed in writing to the Chief Officer. If so appealed, the grievance, unless previously formally presented, shall be presented as provided in subsection (c). The Chief Officer shall render his/her decision and comments in writing and return them to the employee within 10 days after receipt of the formal grievance.

A grievance which is not settled at the Chief Officer level may, within 10 days of the decision of the Chief Officer, be appealed, in writing, to the department head. If so appealed, the grievance, unless previously formally presented, shall be presented as provided in subsection (c). The department head shall render his/her decision and comments in writing and return them to the employee within 10 days after receipt of the formal grievance.

(2) If Chief Officers are not assigned to work 24 hour shifts, the following provisions of this paragraph shall apply:

A grievance which is not settled at the first level may, within 10 days of the decision of the supervisor, be appealed in writing to the department head. If so appealed,

the grievance, unless previously formally presented, shall be presented as provided in subsection (c). The department head shall render his/her decision and comments in writing and return them to the employee within 10 days after receipt of the formal grievance.

(k) **Power of immediate supervisors and department heads in resolving grievances.** In the resolution, or decision of a grievance, no immediate supervisor, Chief Officer, or department head shall modify any procedure or rule within the department unless s/he shall have received the written approval of the City Manager. However, the immediate supervisor, Chief Officer, and department head may interpret and apply existing procedures or rules.

(l) **City Manager.** A grievance which is not settled at the department head level may be appealed in writing to the City Manager within 10 days of the decision of the department head. Within 10 days after receipt of the appeal, the City Manager shall set a date, which is not more than 10 days from the date of receipt of the appeal, to meet with the grievant and with other appropriate persons to attempt to resolve the grievance. If a solution is not agreed upon, the City Manager shall render a decision within 10 days of the meeting.

While a grievance appeal is pending before the City Manager, the parties, by mutual agreement, may request mediation. If the parties are unable to agree upon the mediator, they shall request the California State Mediation Service or a suitable alternate to provide a mediator. Costs of mediation shall be divided one-half to the City and one-half to the employee. The mediator or mediating agency shall make no public recommendations, nor take and public position concerning the issues, but shall work directly with the parties involved.

(m) **Arbitrator determination.** A grievance which is not settled by the City Manager may be appealed in writing for final determination by an arbitrator. The written notice of appeal must be filed with the City Manager within 10 days of the date of his/her written decision.

(n) **Selection of arbitrator.** Within 10 days after the filing of the appeal, the City Manager and the grievant shall meet or otherwise communicate to try to select a mutually acceptable arbitrator who agrees to serve. If the parties cannot agree, a list of five arbitrators will be obtained from the California State Conciliation service, American Arbitration Association, or some other source mutually agreed upon. If the parties cannot agree on one of the names from the list, each party (beginning by lot) shall alternately strike one name from the list until one name remains, who shall be the arbitrator if s/he agrees to serve. If s/he will not serve, the process shall be repeated until an arbitrator is found.

(o) Hearing. The arbitrator shall promptly hold a hearing and shall issue his/her decision not later than 30 days following the date of the hearing.

(p) Decision. The decision of the arbitrator shall be in writing and shall set forth the findings of fact and conclusions on the issues. It shall be submitted to the City Manager and the grievant and shall be final and binding upon the parties.

The arbitrator shall meticulously avoid expanding or contracting the definition of a grievance when the issue of arbitrability is at issue.

(q) Limitation. The authority of the arbitrator to render final and binding decisions on grievances extends only to those matters covered by this grievance procedure and over which the City or a department head may legally delegate its decision-making process.

(r) Costs. The fees of the arbitrator (including any per diem expenses, travel and subsistence expenses), the cost of any hearing room, and the cost of preparing the transcript of the hearing, if any, for the arbitrator shall be borne one-half by the City and one-half by the grievant. All other costs and expenses shall be borne by the party incurring them.

(s) Exclusiveness of remedy. The grievance procedure shall be the exclusive remedy for matters which are grievable thereunder.

## **Section 28. Loss of Driver's License**

An employee whose driver's license is suspended or revoked as a result of the employee's use of drugs or alcohol or moving violations for a period of six (6) months or less so as to prevent the employee from lawfully operating a vehicle during the course of his or her duties, where operating a vehicle is part of the regular course of employment, may be suspended without pay or benefits for that period by the Fire Chief and/or City Manager. The employee may appeal the Fire Chief's recommendation to the City Manager. The City Manager's decision is final. If the loss of such driver's license is attributable to the use of alcohol and/or drugs, the employee shall agree to and shall faithfully participate in a counseling and rehabilitation program agreed to by the City to correct the problem. Failure to agree and to faithfully participate in such program shall constitute a cause for dismissal.

(b) Any suspension or revocation of the driver's license of an employee for a period of more than six (6) months which prevents the employee from lawfully operating a vehicle during the course of his or her duties, where operating a vehicle is a part of the regular course of employment, or any failure of an employee to notify the City of any suspension or revocation of his or her driver's license, regardless of duration, shall constitute a cause for dismissal.

(c) If an employee does not have a valid driver's license for reasons other than suspension or revocation of such license, the City may direct the employee to obtain his or her license within three (3) working day at the Department of Motor Vehicles (DMV). All time missed from work shall be deducted from accumulated vacation, holiday, or compensatory time. If the employee does not obtain his or her driver's license within the required time, the employee shall be treated as if his or her driver's license had been suspended or revoked for a period of six (6) months or less.

### **Section 29. Separate Agreements Prohibited**

The City shall not enter into separate agreements with employees within the bargaining unit as to wages, hours, and terms and conditions of employment, except as to an employee who has undertaken to represent himself/herself as to labor relations with the City in a timely manner.

### **Section 30. Conversion of Accruals Upon 40-Hour Workweek – Shift Reassignments**

(a) Whenever an employee is reassigned from a 40-hour workweek to a shift assignment, or vice versa, the number of hours of accrued vacation, compensatory time, overtime, sick leave, or other accrued time shall be converted by the following formula: 1 hour of time for 40-hour workweek equals 1.4 hours of time for shift assignment.

(b) This section shall have no effect on the rates of accrual set forth in other sections of this Memorandum of Understanding. This section only applies to conversion of hours accrued.

### **Section 31. Shift Exchange**

The following shift exchange policy shall be followed:

(a) The existing request form shall be submitted not less than 48 hours prior to shift exchange.

(b) An employee shall have a right to at least six (6) shift exchanges of duty a year. If the number of shift exchanges causes a management problem, the City and the Union shall meet and confer to agree how this policy can be modified to correct the problem. The City Manager, after meeting and conferring, may reduce the number of exchanges permitted.

(c) If permitting more than six consecutive shifts becomes a management problem, the City Manager will meet and confer with the Union to discuss the problem,

and may then unilaterally add the following wording to the Memorandum of Understanding: "In no case by reasons of an exchange of duty shall a person be off duty more than (6) consecutive shifts."

(d) The exchanges of duty shall be on the basis of Captain for Captain, Captain for acting Captain, comparable driver for driver, Fire Fighter for Fire Fighter, Fire Fighter for probationary Fire Fighter (after six months of employment), and probationary Fire Fighter for probationary Fire Fighter including recognition of paramedic staffing. All shift exchanges shall be subject to the approval of a Chief Officer.

### **Section 31.1 Revised Shift Bid Selection Process**

The City shall provide a method for the selection of platoon, station, vacation leave and holiday leave as a part of the Fire Department's administrative policy directives as developed by the Fire Chief. The City agrees to meet and confer with the Union as to any changes in this administrative procedure.

### **Section 32. No Strike**

(a) Participation in any job action, as defined in Section 18.1(1) of this Memorandum of Understanding by an employee pertaining to his/her employment with the City of San Bruno shall constitute an automatic resignation from the position, which position shall be deemed for all purposes to be vacant.

(b) If the Union, its officers, or its authorized representatives violate subsection (a) or tolerate the violation of such provision, and after notice to responsible officers or business representatives of the Union such officers or representatives fail to take such prompt affirmative action to correct and terminate the conduct described in subsection (a), in addition to any other law, remedy, or disciplinary action to which it or its officers or representatives may be subject, said organization shall, by action of the City Manager, also be subject to suspension or revocation of the recognition granted to such Union, and the City Manager may suspend or cancel any or all payroll deductions payable to or in behalf of members of such Union, and prohibit or restrict the use of any City facility of any nature whatsoever, and restrict access by said officers or representatives to work or duty stations of employees in the representation unit. Such action on the part of the City Manager shall not be subject to review under the provisions of the grievance procedure.

### **Section 33. CPR Instruction**

CPR instruction will be conducted between the hours of 8:00 a.m. and 5:00 p.m. Should the City in the future consider changing the hours for CPR instruction mentioned above, the City will meet and confer with the Union prior to instituting such change, but

reserves the right to make a change in the program after meeting and conferring.

CPR instruction may be taught on an over-time basis dependent on operational needs of the department with the understanding that consideration will be given to ensure training of non-city personnel is not interrupted by need for assigned personnel to respond to calls.

#### **Section 34. Union Charter**

The Union is permitted to display its charter in a mutually acceptable place in the non-public area at each Fire Station.

#### **Section 35. Shopping for Meals; Common Mess**

(a) The provisions of this section are adopted to assure that all members of fire companies will be available at all times to respond to emergency calls as quickly and efficiently as possible.

(b) All employees on each shift at each station shall attend a common mess at the station for consumption of meals. Such members shall contribute in equal shares for the cost of the meals. The amount of the contribution and the procedures for its collection shall be established at each station by the Station Fire Captain on each shift, or other designated method when there are multiple captains assigned to a station. The Station Captain may delegate the duty of collecting such contributions.

(c) The Station Fire Captain on each shift at each station shall appoint a cook, who shall be responsible for selecting the menu, supervising the purchase of groceries, cooking, and serving the meals. Members shall be appointed on a rotating basis or otherwise, as determined by the Station Fire Captain.

(d) The Fire Chief or designee shall provide administrative direction regarding provision of common meals. The Station Fire Captain shall determine the most appropriate method, consistent with departmental procedures, for provision of common meals for his or her assigned shift.

(e) The City shall not be financially liable or responsible for the cost of any meal, or the preparation thereof, or for the collection of any funds, or for any other costs undertaken in connection with the provisions of this section.

(f) At any time management believes that the public can be better served by scheduling certain department activities on Saturdays and Sundays when the public is not working, it shall remain free to do so (i.e., home inspections, CPR classes, open houses, etc.)

- (g) The right to unilaterally discontinue this policy is reserved.

### **Section 36 Exercise Facility/Equipment Use**

Effective as of 1997, the City and Union agreed to a practice whereby the City purchased ten (10) memberships to a local gym (Club Bayhill Gym in Bayhill Shopping Center) on an annual basis for the purpose of providing an appropriate on-duty physical fitness program for department employees. This program was developed as an agreed upon alternative to the 1996 MOU requirement to provide \$3,000 for purchase of exercise equipment. Exercise scheduling shall be coordinated by shift Fire Captain in a manner which provides operational effectiveness towards the shifts assigned daily workload and the limitations of Club Bayhill Gym. Effective 2003, the gymnasium shall be determined by the Fire Chief with input from the bargaining unit taking into consideration location, availability and quality of facilities, cost of membership and response time.

The City will provide complimentary memberships to department personnel who so request to use the Recreation Center facilities when off-duty.

### **Section 38. Attendance**

Failure on the part of an employee, absent without leave, to return to duty within 24 hours after notice to return shall be cause for immediate discharge, and such employee automatically waives all rights under the Personnel Rules, Regulations, Ordinances and this Memorandum of Understanding. Notice shall consist of a letter by registered mail delivered to the last known address of the employee.

### **Section 39. Past Practices and Existing Memorandum of Understanding**

(a) Continuance of working conditions and practices not specifically provided herein shall not be guaranteed by this Memorandum of Understanding. The City shall not be relieved of its obligation to meet and confer with the Union regarding changes in working conditions and practices where otherwise required by law.

(b) Specific provisions of this Memorandum of Understanding shall supersede all existing and prior memoranda of understanding between City and the Union, Personnel Rules, Regulations, Resolutions, and Ordinances on the same subject.

### **Section 40. Negotiable Benefits**

The inclusion of certain benefits in this Memorandum of Understanding shall not preclude the City and the Union from meeting and conferring and agreement upon other or

substituted benefits in subsequent memoranda of understanding.

**Section 41. Separability of Provisions**

Should any section clause, or provision of the Memorandum of Understanding be declared illegal by final judgment of a court of competent jurisdiction, such invalidation of such section, clause or provision shall not invalidate the remaining portions hereof, and such remaining portions shall remain in full force and effect for the duration of this Memorandum of Understanding.

In the event of such invalidation, the parties agree to meet and confer concerning substitute provisions for the provisions rendered or declared illegal.

**Section 42. Term**

This Memorandum of Understanding, entered into on the 25<sup>th</sup> day of May, 2005, shall remain in effect for those employees employed in the classifications set forth in Exhibit "A" for the period from December 1, 2004 and until June 30, 2006, except to the extent that such Memorandum of Understanding may be modified by the parties during such period, and shall continue in full force and effect until either superseded by a subsequent Memorandum of Understanding or by such other action of the City Council affecting wages, hours, and conditions of employment of the employees in classifications covered by this Memorandum of Understanding.

Agreed upon by representatives of the City of San Bruno:

\_\_\_\_\_  
Jim O'Leary, Finance Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Daniel Voreyer, Fire Chief

\_\_\_\_\_  
Date

\_\_\_\_\_  
Barbara Santos, Interim Human Resources Director

\_\_\_\_\_  
Date

Approved by:

\_\_\_\_\_  
Connie Jackson, City Manager

\_\_\_\_\_  
Date



Agreed upon by representatives of the San Bruno Professional Firefighters Association, represented by Teamsters Local 856:

Michael Kennedy, Association President	Date
Mike Novelli, Fire Captain	Date
Dave Cresta, Fire Captain	Date
Fred Garcia, Firefighter	Date
James Houlihan, Firefighter	Date
Joe Lanthier, Teamsters Local 856	Dated

## EXHIBIT "A"

Monthly salaries for the classifications shown below shall be as follows on the specified effective dates. All salaries are "E-PERS", which means that the employee pays the normal contribution to the Public Employees Retirement System (PERS).

Effective March 7, 2005, monthly salaries for the listed classifications shall be in accordance with the following:

**Firefighter:**

(1)	(2)	(3)	(4)	(5)
5607	5901	6211	6537	6880

**Fire Captain:**

(1)	(2)	(3)	(4)	(5)
6614	6961	7326	7711	8116

Effective January 9, 2006, monthly salaries for the listed classifications shall be in accordance with the following:

**Firefighter:**

(1)	(2)	(3)	(4)	(5)
5691	5989	6304	6635	6983

**Fire Captain:**

(1)	(2)	(3)	(4)	(5)
6714	7066	7437	7827	8238